

Message Text

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ACTION NEA-09

INFO OCT-01 ISO-00 SS-15 L-02 SNM-02 SCS-03 SCA-01 RSC-01

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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 0000

INFO AMCONSUL CALCUTTA

C O N F I D E N T I A L NEW DELHI 1233

STADIS

FOR KUX FROM SCHNEIDER

E. O. 11652: LUS

TAGS: CASC, IN

SUBJECT: HARCOS/FLETCHER CASE

1. THE EMBASSY IS REPEATING TO THE DEPARTMENT CALCUTTA 0217 WHICH REPORTS THE JANUARY 26 STATEMENT OF THE WEST BENGAL CHIEF MINISTER RAY TO CONSUL GENERAL PICKERING THAT HE WOULD "RECOMMEND THAT THE PROSECUTION BE DROPPED" IF HARCOS AND FLETCHER CONFESS TO DRUG CHARGES.

2. AS THE DEPARTMENT IS AWARE, HARCOS AND FLETCHER HAVE THUS FAR BEEN UNWILLING TO PROVIDE THEIR LAWYER DONOVAN WITH SUCH A CONFESSION IN PART FOR FEAR THAT IT MIGHT BE USED AGAINST THEM IN A PROSECUTION IN A U. S. JURISDICTION. GIVEN RAY'S STATEMENT, WE NOW EXPECT DONOVAN TO RESUME HER EFFORTS TO OBTAIN A CONFESSION, AND THEN SEEK TO INDUCE THE GOWB TO DROP THE CHARGE OF "CONSPIRACY TO COMMIT ESPIONAGE FOR AN UNNAMED POWER" AND EXPEL THE TWO AMERICANS.

3. IN THIS REGARD THE EMBASSY WOULD APPRECIATE THE DEPARTMENT, IN CONSULTATION WITH THE JUSTICE DEPARTMENT, PROVIDING US WITH AN OPINION AS TO WHETHER AN ATTEMPT TO SMUGGLE DRUGS INTO THE U.S. FROM INDIA, INVOLVING SO FAR AS WE KNOW OVERT ACTS

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ONLY COMMITTED OUTSIDE THE UNITED STATES, DOES CONSTITUTE

A PROSECUTABLE OFFENSE UNDER U. S. FEDERAL STATUTES. IF PROSECUTABLE, HAS IN FACT THE U. S. GOVERNMENT PROSECUTED CITIZENS FOR SUCH ATTEMPTS IN RECENT YEARS?

4. IF SUCH INFORMATION AS IS AVAILABLE INDICATES THAT IT IS HIGHLY UNLIKELY THAT HARCOS AND FLETCHER WOULD BE PROSECUTED BY THE USG OR SOME OTHER JURISDICTION ON THEIR RETURN TO THE U. S. ON THE BASIS OF A CONFESSION TO AN ATTEMPT TO SMUGGLE DRUGS FROM CALCUTTA, THE EMBASSY WOULD APPRECIATE DEPARTMENT'S ADVICE AS TO WHETHER WE MIGHT GIVE THE DEFENSE THIS "INFORMAL" READING OF THE BOYS' POSSIBLE STATESIDE LIABILITY. IF SO, WE WOULD LIKE TO DO THIS AS QUICKLY AS POSSIBLE. OUR ONLY INTEREST IN THIS ISSUE IS THAT HARCOS AND FLETCHER NOT LET SLIP AN OPPORTUNITY TO AVOID CONTINUED DETENTION IN CALCUTTA AS A RESULT OF AN ERROR OF IMPRESSION THAT THEY WOULD BE VULNERABLE TO PROBABLE PROSECUTION IN THE US SHOULD THEY ACKNOWLEDGE THEIR INVOLVEMENT IN AN ATTEMPTED DRUG-SMUGGLING OPERATION.
SCHNEIDER

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